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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,807	08/04/2003	Ervin Wagner	8894.01-1	7226
7590	11/15/2005		EXAMINER	
Robert L. Judd Taglia, Fette, Dumke & White P.C. 720 State Street St. Joseph, MI 49085			CHIU, RALEIGH W	
			ART UNIT	PAPER NUMBER
			3711	
DATE MAILED: 11/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/633,807	WAGNER, ERVIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Raleigh Chiu	3711	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 06 September 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 and 21-50 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 and 10-17 is/are rejected.
- 7) Claim(s) 18-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-4, 10-12 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinprecht (USPN 5,09,620) and applicant's admission of the prior art as set forth in the previous Office action.

Regarding claims 1, 2, 4, 10-12 and 14-17, Figure 1 of Reinprecht shows a typical tennis training session with an instructor on one side of the net and the students on the other side. See column 2, lines 41 et seq. A typical training session often has the instructor sequentially project a plurality of game balls toward the student. See instant specification, paragraph [0001]. It is noted that Reinprecht teaches the concept of placing targets at specific locations on the tennis court at which the students aim; striking balls to such locations (*i.e.*, the corners as shown in Figure 1 of Reinprecht), are those designed to be shots away or out of reach by an opponent. Moreover, it is old and well-known in the art for team coaches to place people on the court (tennis, basketball, football, etc.) to simulate how a particular point

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or play is supposed to develop. As Reinprecht introduces the concept of striking particular targets on the court to practice particular shots (down-the-line, crosscourt, etc.), it would have been obvious to one of ordinary skill in the art to place a person at a location where a typical player might stand during that shot to better simulate actual game situations. The persons placed at these locations can be considered simulated opponents for practice purposes.

Regarding claims 3 and 13, tennis ball machines are old and well-known in the art to sequentially project balls to players.

***Response to Arguments***

3. Applicant's arguments filed 06 September 2005 have been fully considered but they are not persuasive.

Arguments have been duly considered. However, the examiner remains of the opinion that the claimed invention is obvious from the reasons set forth in the previous Office action.

Applicant's arguments relative thereto do not appear to be directed to the aspects on which reliance is made. Specifically, it is noted in the previous Office action that it is well-known in the art for coaches to place people on the court to simulate how a particular point is supposed to develop. It is also noted here that applicant has not challenged this

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assertion. Combining the fact that Reinprecht already teaches the concept of striking particular targets on the court to practice particular shots with the well-known teaching of placing actual people on the court to simulate a particular point would naturally allow for instructing a player to hit away from the simulated opponent since it is a common tennis strategy to try to hit the ball away from the opponent.

With further regard to claims 2 and 14, it would have been naturally obvious for a coach, in placing people on the court, to illustrate a particular concept commensurate to the student's skill level.

With further regard to claim 10, by having a coach place people on the court, it is submitted that such would naturally allow the tennis player to train placement and muscle memory.

With further regard to claims 15-17, it is also submitted that the people situated on the court by the coach would naturally correspond to the recited simulated opponents.

#### ***Allowable Subject Matter***

4. Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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**Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim, can be reached on (571) 272-4463.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

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access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raleigh W. Chiu  
Primary Examiner  
Technology Center 3700

RWC:dei:feif  
14 November 2005